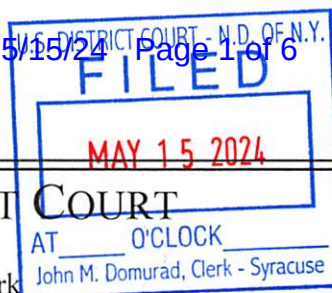


SEALED

AO 91 (Rev. 11/11) Criminal Complaint

**UNITED STATES DISTRICT COURT**

for the

Northern District of New York

UNITED STATES OF AMERICA**v.****DEIVY SANTIAGO PENA ROJAS**Case No. 5:24-nj-243 (tw2)**Defendant(s)****CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of December 2023 in the county of Onondaga in the Northern District of New York the defendant(s) violated:

Code Section
18 U.S.C. § 371 and 2113(b)

Offense Description
Conspiracy to commit bank theft and bank theft.

This criminal complaint is based on these facts:
See attached affidavit.

☒ Continued on the attached sheet.

*Heather Weber**Complainant's signature*

Heather Weber, Special Agent

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: May 15, 2024

*Judith A. Dancks**Judge's signature*

City and State: Syracuse, New York

Hon. Therese Wiley Dancks, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT

I, Heather Weber, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of a criminal complaint charging **DEIVY SANTIAGO PENA ROJAS (“PENA”)** with conspiracy to commit bank theft and bank theft in violation of 18 U.S.C. §§ 371 and 2113(b).

2. I am a Special Agent of the United States Department of Justice, Federal Bureau of Investigation (“FBI”), and I am empowered by law to investigate and make arrests for offenses enumerated in Title 18, including 18 U.S.C. § 2113. As such, I am an “investigative or law enforcement officer” within the meaning of 18 U.S.C. § 2510(7). I have been employed as a Special Agent of the FBI since 2014 and am currently assigned to the Albany Division, Syracuse Resident Agency. While employed by the FBI, I have investigated federal criminal violations related to child exploitation, firearms trafficking, narcotics trafficking, robberies, cybercrime and bank larceny. I have gained experience through training by the FBI and the investigations in which I have personally participated.

3. Based on my training and experience and the facts set forth in this affidavit, there is probable cause to believe that **PENA**, and other individuals, have conspired to commit bank theft and have committed bank theft, in violation of 18 U.S.C. §§ 371 and 2113(b).

4. I base this affidavit on my experience and on information I have personally reviewed and obtained as the primary case agent on this investigation, and based on information I have received from others, both in person and in documentary form. Since this affidavit is being submitted for the limited purpose of establishing probable cause to support a criminal complaint,

I have not included each and every fact known to me concerning this investigation. I have set forth only the facts I believe are necessary to establish probable cause for the complaint.

THE CONSPIRACY

5. In December 2023, I became aware of reports that several financial institutions in the Northern District of New York had been victims of an automated teller machine (“ATM”) scheme known as “ATM Jackpotting.” ATM Jackpotting involves removing an ATM’s cover and infecting the ATM’s hard drive with malware, which allows the operator to assume control of the ATM and cause it to dispense currency.

6. During the ATM Jackpotting events at issue here, the participants of the scheme worked as teams and utilized at least two vehicles per event. The first team approached an ATM, used a key to access the inside of the ATM, and installed hardware to control the device. The second team arrived after the first team left and started conducting transactions at the ATM. Video surveillance showed that, after the ATM was infected, an individual used a card, entered some information, and the ATM dispensed currency. Bank records reflect that the ATM dispensed money, but each transaction was untethered to any account—thus it was directly stolen from the bank itself.

7. I have confirmed that the ATMs and the currency within the subject ATMs described below was property of the respective bank. During each ATM Jackpotting event, the coconspirators stole thousands of dollars of currency over several hours.

8. **PENA**, and other individuals all participated in the above-mentioned ATM Jackpotting scheme in the Northern District of New York in December 2023. As noted below, **PENA** entered the scheme and participated in several ATM Jackpotting events with a group of

individuals traveling within the Northern District of New York in search of vulnerable ATMs.

9. Specifically, as described in more detail below, **PENA** and his coconspirators successfully completed an ATM Jackpotting event at an Empower Federal Credit Union in Syracuse, New York, on December 10, 2023; and at an Empower Federal Credit Union in Syracuse, New York, on December 11, 2023.

THE FINANCIAL INSTITUTIONS

10. Empower Federal Credit Union is a “credit union” as defined in 18 U.S.C. § 2113(g).

**BANK THEFT ON DECEMBER 10, 2023, AT
EMPOWER FEDERAL CREDIT UNION ATM, SYRACUSE, NEW YORK**

11. Video surveillance showed that, on December 10, 2023, at approximately 9:36 PM, a beige Toyota Corolla bearing a temporary Florida license plate (“SV 1”) approached the drive-up ATM at Empower Federal Credit Union at 3700 West Genesee St., in Syracuse, NY. **PENA** and Coconspirator #1 (“C1”) exited the vehicle and opened the ATM. Video surveillance showed that **PENA** and **C1** installed a device inside the ATM. SV 1 then drove away from the ATM.

12. At approximately 9:45 PM, a Honda Civic with a Connecticut license plate (“SV 2”) pulled into the drive-up ATM. Coconspirator #2 (“C2”) inserted a card, pressed buttons, and collected dispensed money continuously until 10:35 PM, when SV 2 drove away.

13. At 10:37 PM, Coconspirator #3 (“C3”) drove SV 1 to the ATM. **C1** sat in the rear driver’s side seat, lowered his window, conducted transactions, and collected dispensed money until 11:15 PM, when **C3** drove SV 1 away from the ATM.

14. At 11:25 PM, **C1** drove SV 2 to the ATM. An unknown individual sat in the front passenger seat. **C1** conducted transactions, collected the dispensed money, and handed it to the

passenger until approximately 11:55 PM, and then he drove SV 2 away.

15. At 12:01 AM, on December 11, 2023, C1 drove SV 2 to the ATM. When he arrived, he opened the ATM. C1 then returned to the car. PENA then got out of the rear driver's side seat and removed something from the ATM and handed it to C1. The ATM was closed and C1 drove SV 2 away.

16. Empower Federal Credit Union reported that \$134,400.00 was stolen from the ATM during this ATM Jackpotting event.

**BANK THEFT ON DECEMBER 11, 2023, AT
EMPOWER FEDERAL CREDIT UNION ATM, SYRACUSE, NEW YORK**

17. Video surveillance showed that, at 12:17 AM on December 11, 2023, C1 drove SV 2 to a drive-up ATM at Empower Federal Credit Union at 515 Erie Blvd, in Syracuse, New York. There were passengers visible in the front and rear of the car, but they were unidentifiable. C1 exited the car and opened the ATM. C1 then drove SV 2 away.

18. At 12:25 AM, C1 drove SV 2 back to the ATM. C1 and PENA exited the vehicle, unlocked the ATM, and installed something inside the ATM. C1 then drove SV 2 away.

19. At 12:48 AM, C1 drove SV 2 back to the ATM. C1 conducted transactions on the ATM and handed cash to the passenger until 1:24 AM, when he drove SV 2 away.

20. At 1:30 AM, C3 drove SV 1 to the ATM. C3 conducted transactions and collected money from the ATM until 2:10 AM, when he drove SV 1 away.

21. At 2:45 AM, C1 drove SV 2 to the ATM. PENA exited the vehicle, opened the ATM, and removed something from inside. C1 then drove SV 2 away.

22. Empower Federal Credit Union reported that \$150,020.00 was stolen from the

ATM during this ATM Jackpotting event.

CONCLUSION

14. Based upon the above information, I respectfully submit that there is probable cause to believe that **PENA**, and other individuals, have conspired to commit bank theft and have committed bank theft in violation of 18 U.S.C. §§ 371 and 2113(b), within the Northern District of New York as described above.

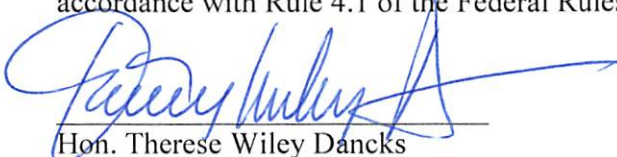
15. Therefore, based upon the information contained in this affidavit, I respectfully request that this Court to sign the accompanying complaint and requested arrest warrant.

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE.

Heather Weber

Heather Weber, Special Agent
Federal Bureau of Investigation

I, the Honorable Therese Wiley Dancks, United States Magistrate Judge, hereby acknowledge that this affidavit was attested by the affiant by telephone on May 18, 2024 in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.



Hon. Therese Wiley Dancks
United States Magistrate Judge